

MEDICAL BOARD OF CALIFORNIA

INITIAL STATEMENT OF REASONS

Hearing Date: November 5, 2010

Subject Matter of Proposed Regulations: Limited Practice License

Sections Affected: Adopt Sections 1315.50, 1315.53, and 1315.55 in Article 4.5, of Chapter 1, Division 13, of Title 16.

Introduction

Legislation, AB 501, effective January 1, 2010, authorizes the Licensing Program to issue a limited practice license to an applicant who is otherwise eligible for a medical license in California, but is unable to practice all aspects of medicine safely due to a disability. Regulatory proposal sets forth the requirements and criteria for a limited practice license. In preparing the regulatory language, staff also considered current licensees who wish to go into this status due to a disability affecting their ability to practice some aspects of medicine safely. Parallel language was also prepared to ensure the limited practice license is consistent with the criteria for the current disability license.

On May 26, 2010, the Medical Board of California (Board) held an Interested Parties Meeting to review and discuss the proposed regulatory language. Based on feedback received at the meeting and in writing, suggestions were incorporated into the revised limited practice license proposed regulations.

Specific Purpose of each adoption:

Adopt Section 1315.50 - This section defines the requirement for an independent clinical evaluation.

Factual Basis/Rationale:

- This section establishes the requirements for an applicant seeking a limited practice license and a current licensee who seeks a disabled license.
- The applicant is aware of his/her limitations and is choosing to apply for the limited practice license.
- Consumer protection is the highest priority of the Board; therefore, an independent clinical evaluation is necessary to ensure that an applicant is eligible for a limited practice license and can practice medicine safely under that license.
- The report submitted to the Board will allow the tailoring of the license to the specific circumstances of the applicant or licensee.

Adopt Section 1315.53 – This section defines the criteria for the reviewing physician conducting an independent clinical evaluation.

- The Board determined that the independent clinical evaluation should be performed by a physician who specializes in the diagnosis and/or treatment of the disability of the same nature as that of the applicant. This benefits the applicants by allowing them to research and choose a physician that specializes in the area of their disability. In addition, the Board is assured that the physician conducting the evaluation is specialized in the area of the disability and the recommendations made regarding the limits of practice are most appropriate for the applicant's needs.
- The Board is relying on an outside independent evaluation from a qualified California physician. To ensure an impartial review, the Board requires that the independent clinical evaluation be performed by a physician who has no personal, professional, or social relationship with the applicant.
- The Board determined that the physician who completes the independent clinical evaluation shall possess a current California license with no history of discipline. To ensure public protection, the independent clinical evaluation shall be conducted by a physician that has met all of the requirements to practice medicine in California and is free from any limitations.

Amend Section 1315.55 - This section defines the required contents of the independent clinical evaluation report.

Factual Basis/Rationale:

- The Board determined that in order to issue a limited practice license, the independent clinical evaluation would need to include sufficient information to allow the Board to make a determination of the applicant's ability to practice medicine safely. This section describes the contents of the report to be prepared by the evaluating physician and submitted by the applicant. By requiring that the evaluation be on the evaluating physician's letterhead and signed under penalty of perjury will provide the Board with confidence that the evaluation is bona fide. The required assessment of the applicant's or licensee's disability, his or her treatment protocols, and the suggested practice limitations will provide the Board with a mechanism to tailor the limitations of the license to the particular situation of the applicant or licensee. Finally, the sixty-day time limit ensures that the evaluation is recent enough to provide the Board with current information.

Underlying Data:

Technical, theoretical or empirical studies or reports relied upon (if any): None

Business Impact:

This regulation will not have a significant adverse economic impact on businesses. This initial determination is based on the following facts or evidence/documents/testimony:

This regulation only impacts persons applying to the Medical Board for a limited practice license.

The Board does not license businesses, the Board licenses individuals; therefore, the proposed regulation has no business or economic impact.

Specific Technologies or Equipment

This regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives

No reasonable alternative to the regulation would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.

Set forth are the alternatives which were considered and the reasons each alternative was rejected:

- If the Board does not have a regulation allowing an applicant to apply for a limited practice license, applicants with disabilities that impact their ability to practice some aspect of medicine safely might continue to be ineligible for licensure in California, as the Board issues only a full and unrestricted medical license.

Applicants who have previously applied were unable to be licensed due to our lack of a limited practice license. Therefore, they were unable to be employed as a physician to provide care to patients, or work in underserved areas, or provide voluntary services in California.